

AMENDMENTS TO THE DRAWINGS

Attached hereto in an Appendix are four (4) sheets of drawings to replace four of the drawing sheets originally filed in the application. These sheets, which include FIGS. 3, 5, 6A and 6B, replace the original sheets that also include FIGS. 3, 5, 6A and 6B.

REMARKS

1. In response to the Office Action mailed June 28, 2007, Applicants respectfully request reconsideration. Claims 1-18 were originally presented for examination. In the outstanding office action, claims 1-18 were rejected. By the foregoing Amendments, claims 1, 3, 4, 6, 10 and 14-18 have been amended. Claim 19 has been added. No claims have been cancelled. Thus, upon entry of this paper, claims 1-19 will be pending in this application. Of these 19 claims, 4 claims (claims 1, 10, 14 and 18) are independent.
2. Based upon the above Amendment and following Remarks, Applicants respectfully request that all outstanding objections and rejections, be reconsidered, and that they be withdrawn.

Examiner Interview

3. Applicants thank the Examiner for the courtesies extended to Applicants' undersigned representative in the telephonic interviews which took place on September 19, 2007.

Art of Record

4. Applicants acknowledge receipt of form PTO-892 listing additional references identified by the Examiner.
5. Applicants thank Examiner for return of form PTO/SB/08a, filed by the Applicants on July 19, 2006, which has been initialed by the Examiner indicating consideration of the references cited therein.

Foreign Priority

6. Applicants note with appreciation the Examiner's acknowledgement of foreign priority under 35 U.S.C. §119.
7. Applicants respectfully request that the Examiner acknowledge receipt of certified copies of the priority documents in the next official action.

Specification

8. Applicants have amended the specification to correct minor typographical errors.

Applicants respectfully submit that no new matter has been added. Entry is respectfully requested.

Drawings

9. Applicants submit four replacement sheets containing Figures 3, 5, 6A and 6B herein. Applicants have submitted these replacement sheets to fix minor numbering errors in the originally filed drawings. Specifically, in original Figure 3 reference number 312 was shown twice. Applicants have deleted the duplicative reference number. Also in Figure 3, Applicants have added reference number 336 which was accidentally omitted from the prior drawing sheets. As described in the specification, reference number 336 refers to the platform of tray 324. In Figure 5, incorrect reference number 516 was changed to the proper reference number 536. Furthermore, in Figure 6A, incorrect reference number 416 was changed to the proper reference number 414. Finally, in Figure 6B, label PSID was amended to the more correct label Power Supply ID. Applicants respectfully submit that no new matter has been added. Entry is respectfully requested.

Claim rejections under 35 U.S.C. §112

10. The Examiner has rejected claims 1-18 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, the Examiner asserts that “[e]ach of the independent claims is devoid of any structure that would render the claimed device capable of functioning as claimed.” (*See, Office Action, page 2.*)

11. During the noted Examiner conference, Applicants’ representative and the Examiner discussed possible amendments to claims 1, 10 and 18 that would overcome this rejection. In particular, the Examiner suggested that positive recitation of structural elements would cause the Examiner to withdraw the 35 U.S.C. 112 rejections of these claims. As such, Applicants have amended claims 1, 10 and 18 to more clearly recite structural elements. Therefore, in accordance with the Examiner’s indications, Applicants respectfully submit that claims 1, 10 and 18 are now in condition for allowance.

12. Applicants have also amended independent claim 14 to positively recite structural elements. Although Applicants' representative and the Examiner did not discuss claim 14, Applicants submit that claim 14 has been amended in accordance with the Examiner's indications concerning structural limitations. As such, Applicants submit that claim 14 is now in condition for allowance.

13. Applicants have further amended claims 3, 4, 6, 15, 16 and 17. Applicants assert that these amendments are minor wording corrections that have been made to keep the claims consistent with the above described claim amendments.

14. In regards to the amendments to claims 1, 3, 4, 6, 10, 14-18, Applicants submit that the Amendments do not narrow the scope of the claims and that no new matter has been added.

Claim Rejections under 35 U.S.C. §102 in view of Popish

15. The Examiner has rejected claims 10-13 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,761,266 to Popish, (hereinafter, "Popish"). The Examiner asserts that "Applicant claims a box and a lid for holding a speech processor" and that "Popish teaches a box for holding hearing aids. Speech processors would fit in the box as well." (See, Office Action, page 2.)

16. The device of Popish comprises a carrying case having separate compartments for eyeglasses, dentures and hearing aids. (See, Popish, col. 1, lines 53-62.) Therefore, Popish teaches a box like device capable of holding items such as a hearing aid. (See, Popish, col. 1, lines 53-62.) However, Applicants respectfully assert that the box for holding hearing aids of Popish fails to teach all elements of Applicants' amended claim 10.

17. During the noted Examiner interview, the Examiner acknowledged that if Applicants amended claim 10 to include structural elements that would distinguish the claim from a simple box, then Popish would fail to teach all elements of the claim. As such, Applicants have amended claim 10 to recite, in part, a “base member for removably receiving a dual-mode speech processor module, said speech processor module having one or more connectors ... a cover member ... wherein said **base member or said cover member is configured to interface with said one or more connectors of said** speech processor module.” (Emphasis Added.) Due to the fact that the box of Popish completely fails to contain any interfacing capability, let alone the capability to “interface with said one or more connectors of said speech processor module,” Applicants assert that Popish fails to teach all elements of Applicants’ claim 10. As such, Applicants assert that claim 10 is allowable over Popish and respectfully request that the rejection under U.S.C. § 102 be reconsidered and withdrawn.

Claim Rejections under 35 U.S.C. §102 in view of Zilberman

18. The Examiner has rejected claims 14-18 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 5,824,022 to Zilberman *et al.*, (hereinafter, “Zilberman”). The Examiner asserts that claims 14-15 and 18 “are merely directed to a speech processor module with intended use statements” and that it is conceivable to draft an embodiment of Zilberman that could theoretically meet Applicants’ intended use. (*See*, Office Action, page 3.) However, Applicants assert that the device of Zilberman is merely directed to a conventional speech processor for a cochlear stimulation system. (*See*, Zilberman, col. 2, line 21- col. 3, line 8.) Applicants assert that such a conventional speech processor lacks several structural elements of Applicants’ amended claims 14 and 18.

19. During the noted Examiner interview, the Examiner indicated that if the claims were made structurally distinguishable from a conventional speech processor for a cochlear implant system as taught by Zilberman, then the claims would likely be allowable. In line with these indications by the Examiner, Applicants have amended claims 14 and 18 to distinguish the claims from the speech processor of Zilberman.

20. Referring to claim 14, Applicants have amended the claim to recite, in part, a “speech processor module … configured to interface with a first set of one or more components to provide a stand-alone behind-the-ear (BTE) speech processing unit; and wherein said speech processor module is further configured to interface with a second set of one or more components to provide a body-worn speech processing unit.” The conventional speech processor of Zilberman completely fails to disclose such a speech processor configured to interface with a first and second set of components. Zilberman also fails to disclose a device capable of interfacing with “a first set of one or more components to provide a stand-alone behind-the-ear (BTE) speech processing unit,” as well as capable of interfacing with “a second set of one or more components to provide a body-worn speech processing unit.” (*See*, Zilberman, col. 2, line 21- col. 3, line 8.)

21. Referring to claim 18, Applicants have amended the claim to recite, in part, a “speech processor module configured to be implemented in more than one mode of operation... comprising: an operational selector configured to select the operational mode of said speech processor module; and a user controls selector to select the applicable user controls based on the determination of said operational mode selector.” Applicants assert that Zilberman fails to disclose “an operational selector configured to select the operational mode of said speech processor module.” As noted above, Zilberman fails to disclose multiple modes of operation, and merely functions as a BTE. (*See*, Zilberman, col. 2, line 21- col. 3, line 8.) Furthermore, because Zilberman only discloses one mode of BTE operation, Applicants assert that Zilberman also fails to disclose “a user controls selector to select the applicable user controls based on the determination of said operational mode selector” as recited in part in claim 18.

22. Therefore, in light of the noted Examiner interview, Applicants assert that Zilberman fails to teach all elements of Applicants’ amended claims 14 and 18. As such, Applicants assert that claims 14 and 18 are patentable over Zilberman and respectfully request that the rejection under U.S.C. §102 be reconsidered and withdrawn.

Claim Rejections under 35 U.S.C. §103

23. The Examiner has rejected claims 1-9 under 35 U.S.C. 103(a) as being obvious over Zilberman alone, or in view of Popish. Specifically, the Examiner states that while “Zilberman shows only the speech processor, it is well known to include a protective case for carrying hearing aids and speech processors.” (*See*, Office Action, page 4.) The Examiner then further states that it would also have been obvious to mount the speech processor of Zilberman into the box of Popish.
24. Without addressing the lack of motivation to combine the cite references, Applicants assert that the Examiner has failed to make out a *prima facie* case of obviousness because Zilberman taken alone, or in combination with Popish, fails to teach or suggest all elements of Applicants’ amended claim 1. During the noted Examiner interview, the Examiner indicated that if claim1 was amended to structurally recite the relationship between the speech processor and the case, then claim 1 would likely be allowable over the art of record. As such, Applicants have amended claim 1 to recite, in part, “an external component of a cochlear implant hearing system, comprising: a speech processor module comprising …one or more connectors; and a protective case configured to interface with said one or more connectors; wherein said speech processor unit is removably mountable within said case and operable while mounted therein” as recited in part in Applicants’ claim 1. Applicants assert that the art of record completely fails to teach “a protective case configured to interface with said one or more connectors.” Also, Applicants assert that the art of record fails to teach or suggest a speech processor “removably mountable within said case and ***operable while mounted therein.***” (Emphasis added.)
25. Therefore, in light of the noted Examiner interview, Applicants assert that Zilberman and Popish, taken alone or in combination, fail to teach or suggest all elements of Applicants’ amended claim 1. As such, Applicants assert that claim 1 is patentable over the art of record and respectfully request that the rejection under U.S.C. § 103 be reconsidered and withdrawn.

Dependent Claims

26. The dependent claims incorporate all the subject matter of their respective independent claims and add additional subject matter which makes them independently patentable over the art of record. Accordingly, Applicants respectfully assert that the dependent claims are also allowable over the art of record.

Conclusion

27. In view of the foregoing, Applicants respectfully submit that this application is now in condition for allowance. A notice to his effect is respectfully requested.

28. Applicants reserve the right to pursue any cancelled claims or other subject matter disclosed in this application in a continuation or divisional application. Thus, cancellations and amendments of above claims, are not to be construed as an admission regarding the patentability of any claims.

Respectfully submitted,

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APPENDIX